



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/783,220	02/19/2004	Roland A. Foubert	2340-67880	7404

24197 7590 10/13/2005
KLARQUIST SPARKMAN, LLP
121 SW SALMON STREET
SUITE 1600
PORTLAND, OR 97204

EXAMINER

GRAY, LINDA L

ART UNIT	PAPER NUMBER
----------	--------------

1734

DATE MAILED: 10/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/783,220

Applicant(s)

FOUBERT ET AL.

Examiner

Linda L. Gray

Art Unit

1734

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-25 and 28-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21-25 and 28-37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Detailed Action

Claim Rejections - 35 USC 103

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. **Claims 21-25, 28-29, 31-33, and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bergstein (US 2,628,179) in view of Johnson (EP 0 776 848 A2).**

Claim 21, Bergstein teaches a method for forming cutting edge 16 on a dispensing carton where edge 16 is a film and the carton is of paper. The method includes supplying roll 29 of tape 28 to an application station at roller 31, applying a length of tape 28 to a length of carton board 21 and laminating tape 28 to board 21, and cutting board 21 and tape 28 lengthwise to separate board 21 into carton blanks and form edge 16 on each blank (c 5, L 25, to c 8, L 64).

Claim 21 (and claim 25 also), Bergstein teaches tape 28 to include an adhesive on one side (c 6, L 14-19); however, Bergstein does not teach tape 28 to be a polymeric material, instead of metal, of polyester, polyethylene, or polypropylene (claim 25).

However, cutting edges of a polymeric material of polyester, polyethylene, or polypropylene are well-known in the art of cartons having cutting edges; specifically, see Johnson at page 2, lines 13-18, and page 3, lines 43-48, and it would have been obvious to a person of ordinary skill in the art at the time the invention was made to have provided in Bergstein that tape 28 be a polymeric material of polyester, polyethylene, or polypropylene instead of metal, because it is obvious to replace one material with another art recognized alternative material.

Claim 22, Bergstein teaches that cutting of board 21 and tape 28 forms a serrated edge in tape 28 and along the cutting edge of each blank (see Fig 1 also). **Claim 23**, Bergstein teaches the blanks include front, bottom, and rear panels 1, 2, and 3, respectively, as well as lid 4 (see Figs 1 and 3 also). **Claim 24**, Bergstein teaches that edge 16 is formed in panel 1 (see Figs 1 and 3 also). **Claim 28**, Bergstein teaches board 21 and tape 28 to be cut simultaneously such that tape 28 and panel 1 each have a

Art Unit: 1734

matching profile that together form edge 16 (see Figs 1, 3, 9, and 10 also). **Claim 29**, Bergstein teaches that tape 28 is applied in registry with predetermined adjacent edges of the blanks (see Figs 10 and 11 also) cut from boards 21. **Claim 31**, Bergstein teaches tape 28 to have a thickness of 0.003 to 0.010 inches (0.0762 to 0.254 mm).

***Claims 32-33**, Bergstein does not elaborate on the type of adhesive used and does not teach a hot melt adhesive.*

However, Johnson teaches a wide variety of adhesive (p 5, L 12-22) including hot melt as used for adhesive 16 of the cutter.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have provided in Bergstein using a hot melt adhesive because Johnson teaches such to be conventional in the art and it is obvious to replace one adhesive (that of Bergstein, not specifically disclosed) with another art recognized alternative adhesive. **Claim 33**, Bergstein teaches applying tape 28 using roller 31 where heated rollers over hot melt adhesive webs are well-known to enhance bonding thereto.

Claim 35, Bergstein modified teaches the same material for tape 28 as applicant such that it is considered to have a heat resistance between 160°F to 350°F as claimed.

3. Claim 30 rejected under 35 U.S.C. 103(a) as being unpatentable over Bergstein in view of Johnson as applied to claims 21-25, 28-29, 31-33, and 35 above, and further in view of Kawai et al. (US 5,897,736).

***Claim 30**, which depends from claim 21, Bergstein teaches applying adhesive at coater 30 after unwinding from roll 29 and does not teach that tape 28 includes the adhesive already.*

However, Kawai et al. teach in the same art of applying cutting edge 171 to carton B that tape S already includes the adhesive with the use of liner S1 (c 8, Second Embodiment).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have provided in Bergstein that tape 28 includes the adhesive already because Kawai et al. teach in the same art of applying a cutting edge to a carton that it is conventional that the

Art Unit: 1734

tape that forms the cutting edge already includes the adhesive with the use of a liner where such in Bergstein would eliminate the use of coater 30.

4. Claim 34 rejected under 35 U.S.C. 103(a) as being unpatentable over Bergstein in view of Johnson as applied to claims 21-25, 28-29, 31-33, and 35 above, and further in view of Kerr (US 3,729,648).

Claim 34, Bergstein does not teach tape 28 to be corona treated.

However, Kerr teaches corona treatment of web to enhance coatability of an adhesive thereto (c 1, L 10-31), and for this reason it would have been obvious to a person of ordinary skill in the art at the time the invention was made to have provided in Bergstein that tape 28 be corona treated to enhance attachment of the adhesive thereto.

5. Claims 21-25, 28-29, 31-32, and 35-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marcalus (US 1,843,429) in view of Johnson.

Claim 21, Marcalus teaches a method for forming a cutting edge on a dispensing carton where the edge is a film and the carton is of paper. The method includes supplying roll 14 of tape C to an application station at roller 1, applying a length of tape C to a length of carton board B and laminating tape C to board B, and cutting board B and tape C lengthwise to separate board B into carton blanks and form the edge on each blank (p 1, c 2, L 54, to p 2, c 2, L 75).

***Claim 21 (and claim 25 also)**, Marcalus teaches tape C to include an adhesive on one side (p 1, c 2, L 86, to p 2, c 1, L 10); however, Marcalus does not teach tape C to be a polymeric material, instead of paper, of polyester, polyethylene, or polypropylene (claim 25).*

However, cutting edges of a polymeric material of polyester, polyethylene, or polypropylene are well-known in the art of cartons having cutting edges; specifically, see Johnson at page 2, lines 13-18, and page 3, lines 43-48, and it would have been obvious to a person of ordinary skill in the art at the time the invention was made to have provided in Marcalus that tape

Art Unit: 1734

C be a polymeric material of polyester, polyethylene, or polypropylene instead of paper, because it is obvious to replace one material with another art recognized alternative material.

Claim 22, Marcalus teaches that cutting of board B and tape C forms a serrated edge in tape C and along the cutting edge of each blank. **Claim 23**, Marcalus teaches the blanks include front, bottom, and rear panels, as well as lids (see Fig 3 also). **Claim 24**, Marcalus teaches that the edge is formed in the front panel (see Fig 3 also). **Claim 28**, Marcalus teaches board B and tape C to be cut simultaneously such that tape C and the front panel each have a matching profile that together form the edge. **Claim 29**, Marcalus teaches that tape C is applied in registry with predetermined adjacent edges of the blanks cut from boards B. **Claim 31**, Marcalus does not teach the claimed thickness; however, such cutter thicknesses are conventional in the art and it would have been obvious to a person of ordinary skill in the art at the time the invention was made to have provided for such in Marcalus because it is obvious to replace one thickness (that of Marcalus not specifically disclosed) with another art recognized alternative thickness. **Claim 32**, Marcalus suggests a hot melt adhesive type at page 1, line 86, to page 2, line 10. **Claim 35**, Marcalus modified teaches the same material for tape C as applicant such that it is considered to have a heat resistance between 160°F to 350°F as claimed. **Claim 36**, the cutting edge projects above the edge of the front panel (p 2, c 2, second full para), and this portion is free of the adhesive (p 2, c 1, L 59, to p 2, c 2, L 70) (**claim 37**).

6. Claim 34 rejected under 35 U.S.C. 103(a) as being unpatentable over Marcalus in view of Johnson as applied to claims 21-25, 28-29, 31-32, and 35-37 above, and further in view of Kerr.

Claim 34, Marcalus does not teach tape C to be corona treated.

However, Kerr teaches corona treatment of web to enhance coatability of an adhesive thereto (c 1, L 10-31), and for this reason it would have been obvious to a person of ordinary skill in the art at the time the invention was made to have provided in Marcalus that tape C be corona treated to enhance attachment of the adhesive thereto.

Prior Art of Record

7. The following prior art is made of record: **(a)** Macdonald et al. teach applying a cutter to carton blanks using a hot melt adhesive applied to the blank just before application of the cut cutter thereto, and the reference also teaches metal or plastic cutters, **(b)** Sano et al. teaches metal cutters or polyester cutters, and **(c)** Taylor et al. teach cutters of metal or plastic.

Art Unit: 1734

Response

8. Applicant's comments filed 7-21-05 have been fully considered. The examiner's statement with respect to replacing one material with another art recognized alternative material is not a statement of equivalence as indicated in applicant's response. A reference has been provided to support the examiner's statement that polyester, polyethylene, and polypropylene cutters are well-known alternative materials in the art.

Applicant argues that Bergstein does not teach that the tape is applied in registry with predetermined adjacent edges of the carton blanks cut from the carton board. In response, see Figures 9 and 13 of Bergstein where tape 28 is applied to the center of board 21 which is then cut into the carton blanks along the center of tape 28 and board 21. Cut tape 28 forms a cutting edge along the edge ("predetermined adjacent edges of the carton blanks") of each carton blank formed, and tape 28 was applied "in registry" with these edges when applied to the center of board 21 before cutting.

New claims 30-37 have been addressed.

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Linda Gray whose telephone number is (571) 272-1228. The examiner can normally be reached Monday-Friday from 9:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Fiorilla, can be reached at (571) 272-1187. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.


Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public Pair. Status information

Art Unit: 1734

for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-1997 (toll-free).

llg

August 22, 2005


LINDA GRAY
PRIMARY EXAMINER